

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-6062**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ROBERT LEO BREEDEN, a/k/a Joey,

Defendant - Appellant.

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Appeal from the United States District Court for the Northern District of West Virginia, at Martinsburg. W. Craig Broadwater, District Judge; James E. Seibert, Magistrate Judge. (CR-00-57, CA-02-49-3)

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Submitted: March 20, 2003

Decided: March 31, 2003

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Before WILLIAMS and TRAXLER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Robert Leo Breeden, Appellant Pro Se. Thomas Oliver Mucklow, Assistant United States Attorney, Martinsburg, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Robert Leo Breeden seeks to appeal the district court's order denying relief on his motion filed under 28 U.S.C. § 2255 (2000). The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2000). The magistrate judge recommended that relief be denied and advised Breeden that the failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Breeden failed to object to the magistrate judge's recommendation.\*

The timely filing of specific objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. See Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Breeden has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we deny a certificate of appealability and dismiss the appeal.

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\* The magistrate judge's report and recommendation was entered on December 3, 2002. Breeden did not file any objection to the report and recommendation, but filed a notice of appeal on December 16, 2002. The district court adopted the magistrate judge's report and recommendation and denied Breeden's § 2255 motion on January 8, 2003.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED